

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Diesel Emissions Reduction Act.

6 Section 5. Legislative findings and purpose. The
7 Legislature hereby finds and declares that:

8 (a) Diesel exhaust particle pollution poses a clear and
9 present health risk to the people of Illinois. The United
10 States Environmental Protection Agency has classified diesel
11 exhaust as a likely human carcinogen, and has identified diesel
12 particulate matter and diesel exhaust organic gases as toxic
13 air pollutants. Diesel exhaust is also a prime contributor to
14 airborne fine particle pollution that is linked to premature
15 death and other serious cardiovascular and pulmonary problems
16 such as heart attacks, abnormal heart rhythms,
17 atherosclerosis, stroke, asthma attacks, permanent respiratory
18 damage, and retardation of lung growth in children.

19 (b) The health impacts from diesel emissions particularly
20 affect children, the elderly, and people with weakened immune
21 systems.

22 (c) Particularly high concentrations of diesel emissions
23 often occur in heavily traveled transportation corridors,

1 intermodal yards, bus depots, and construction sites; these
2 diesel "hot spots" often are found in densely populated urban
3 areas, disproportionately impacting ethnic minorities and
4 people of lower economic status.

5 (d) Diesel engine crankcases also are a source of emissions
6 that can seep into the cabin and expose vehicle drivers and
7 passengers to harmful diesel emissions.

8 (e) Diesel exhaust also contains black carbon emissions,
9 which contribute to global climate change.

10 (f) Reduction of diesel emissions can help address these
11 human health and climate problems.

12 (g) The United States Environmental Protection Agency has
13 enacted requirements over the past few years requiring the
14 substantial reduction of emissions from new diesel engines in
15 both heavy-duty highway vehicles and land-based nonroad
16 equipment. However, these regulations do not apply to any of
17 the over 11,000,000 existing diesel engines in the United
18 States, most of which emit substantially more pollution and
19 often remain in service for 10 to 30 years depending on the
20 type of engine and equipment.

21 (h) Practical, cost-effective measures to substantially
22 reduce diesel particulate emissions are available today, and
23 can be applied to many existing diesel engines. The same
24 technology that limits diesel pollution from new diesel engines
25 can be retrofitted onto existing engines or applied in new
26 replacement engines to reduce diesel emissions by 85% or more.

1 (i) Therefore, the purpose of this Funding Program is to
2 help minimize the public health risks from exposure to diesel
3 particulate emissions as expeditiously as practical.

4 Section 10. Definitions. For purposes of this Act:

5 (a) "Auxiliary power unit" means a portable,
6 vehicle-mounted system that provides climate control and power
7 for a diesel vehicle interior cabin without using the
8 propulsion engine.

9 (b) "CARB" means the California Air Resources Board.

10 (c) "Certified engine configuration" means a new, rebuilt,
11 or remanufactured engine configuration:

12 (1) that has been certified or verified by USEPA or
13 CARB;

14 (2) that meets or exceeds certain engine emissions
15 standards, as determined by IEPA; and

16 (3) in the case of a certified engine configuration
17 involving the replacement of an existing engine or vehicle,
18 an engine configuration that replaced an engine that was
19 removed from the vehicle and returned to the supplier for
20 remanufacturing to a more stringent set of engine emissions
21 standards or for scrappage.

22 (d) "Closed Crankcase Ventilation System" or "CCV" means
23 equipment that completely closes the crankcase of a diesel
24 engine to the atmosphere and routes the crankcase vapor to the
25 engine intake air system or the exhaust system.

1 (f) "DOT" means the Department of Transportation.

2 (g) "Fleet" means one or more diesel vehicles or mobile or
3 stationary diesel engines owned or operated by the same person
4 or group of related persons.

5 (h) "Heavy duty diesel vehicle" means a motor vehicle with
6 a gross vehicle weight rating of at least 14,000 pounds that is
7 powered by a diesel engine.

8 (i) "IEPA" means the Illinois Environmental Protection
9 Agency.

10 (j) "Incremental cost" means the cost of an applicant's
11 emission reduction measure actions, less the baseline cost that
12 would otherwise be incurred by the applicant in the normal
13 course of business. Incremental costs may include added lease
14 or fuel costs as well as capital costs.

15 (k) "Level 3 Control" means a Verified Diesel Emission
16 Control Device that achieves a particulate matter (PM) emission
17 reduction of 85% or more from uncontrolled engine emission
18 levels, or that reduces emissions to less than or equal to 0.01
19 grams of PM per brake horsepower-hour. Level 3 Control includes
20 repowering or replacing the existing diesel engine with an
21 engine meeting USEPA's 2007 Heavy-duty Highway Diesel
22 Standards, or in the case of a nonroad engine, an engine
23 meeting the USEPA's Tier 4 Nonroad Diesel Standards; Level 3
24 Control also includes new diesel engines meeting the emissions
25 standards.

26 (l) "Medium duty diesel vehicle" means a motor vehicle with

1 a gross vehicle weight rating of at least 8,500 pounds and less
2 than 14,000 pounds that is powered by a diesel engine.

3 (m) "Motor vehicle" means any self-propelled vehicle
4 designed for transporting persons or property on a street or
5 highway, including an on-road diesel vehicle.

6 (n) "Nonroad engine" means an internal combustion engine
7 (including the fuel system) that is not used in a motor vehicle
8 or a vehicle used solely for competition, or that is not a
9 stationary source, except that this term shall apply to
10 internal combustion engines used to power generators,
11 compressors, or similar equipment used in any construction
12 program or project.

13 (o) "Nonroad vehicle" means a vehicle or piece of equipment
14 that is powered by a nonroad engine, 50 horsepower and greater,
15 and that is not a motor vehicle or a vehicle used solely for
16 competition, which shall include, but not be limited to,
17 excavators, backhoes, cranes, compressors, generators,
18 bulldozers, and similar equipment; unless otherwise indicated,
19 nonroad vehicles do not include locomotives or marine vessels.

20 (p) "Person" means any natural person, co-partnership,
21 firm, company, association, joint stock association,
22 corporation, or other like organization or entity.

23 (q) "PM" means particulate matter, a criteria pollutant
24 listed under Section 7408 of the federal Clean Air Act.

25 (r) "Public agency" means a state, city, county,
26 administration, department, division, bureau, board,

1 commission, corporation, institution, or agency of government,
2 the expenses of which are paid in whole or in part from the
3 public treasury.

4 (s) "Retrofit" means to equip a diesel motor vehicle or
5 nonroad vehicle with new particulate emissions-reducing parts
6 or technology verified by USEPA or CARB after manufacture of
7 the original engine.

8 (t) "Ultra low sulfur diesel fuel" means diesel fuel that
9 has a sulfur content of no more than 15 parts per million.

10 (u) "USEPA" means the United States Environmental
11 Protection Agency.

12 (x) "Verified diesel emission control device" means:

13 (1) an emission control device or strategy that has
14 been verified to achieve a specified diesel PM reduction by
15 USEPA or CARB; or

16 (2) replacement or repowering with an engine that is
17 certified to specific PM emissions performance by USEPA or
18 CARB.

19 (y) "Verified technology" means a verified diesel emission
20 control device, an advanced truckstop electrification system,
21 or an auxiliary power unit.

22 Section 15. Mechanics of the Diesel Emissions Reduction
23 Funding Program.

24 (a) The Diesel Emissions Reduction Fund (the "Fund") is
25 hereby established as a special fund in the State treasury.

1 (1) The Fund shall be administered by IEPA for the
2 benefit of the Diesel Emissions Reduction Funding Program
3 established under this Section.

4 (2) Interest earned on the Fund shall be credited to
5 the Fund.

6 (3) Moneys in the Fund shall be used only to implement
7 the Funding Program, provided that a maximum total of 2% of
8 the money in the Fund may be used for Fund administrative
9 costs incurred by both the IEPA and the Department of
10 Revenue. Moneys allocated to an eligible diesel emission
11 reduction measure but not expended in any fiscal year shall
12 be carried over to succeeding fiscal years.

13 (b) Establishment and Administration of the Funding
14 Program. Within one year after the effective date of this
15 Funding Program, IEPA, in consultation with the Department of
16 Revenue and after notice and public comment, shall promulgate
17 rules to establish and implement the Diesel Emissions Reduction
18 Funding Program in accordance with this Act.

19 (1) The Funding Program shall consist of either the
20 Grant Program or the Rebate Program established pursuant to
21 this Act, or both programs, as determined by IEPA in its
22 sole discretion.

23 (2) If IEPA elects to disburse Funding Program funds
24 pursuant to the Grant Program, IEPA shall establish and
25 administer that program and shall provide grants and
26 low-cost revolving loans from the Fund, on a competitive

1 basis, to eligible measures to achieve significant
2 reductions of diesel particulate emissions in accordance
3 with the provisions of subsection (c).

4 (3) If IEPA elects to disburse Funding Program funds
5 pursuant to the Rebate Program, IEPA shall establish and
6 administer that program and shall provide rebates from the
7 Fund in accordance with subsection (d).

8 (4) In administering the Funding Program and in
9 accordance with the requirements of this program, IEPA
10 shall:

11 (A) manage Funding Program funds and oversee the
12 Funding Program;

13 (B) produce guidelines, protocols, and criteria
14 for eligible emission reduction measures;

15 (C) develop methodologies for evaluating emission
16 reduction measure benefits and cost-effectiveness;

17 (D) develop procedures for monitoring whether the
18 emissions reductions projected for grants awarded for
19 emission reduction measures under this Act are
20 actually achieved;

21 (E) prepare reports regarding the progress and
22 effectiveness of the Funding Program; and

23 (F) take all appropriate and necessary actions so
24 that emissions reductions achieved through the Funding
25 Program may be credited by USEPA to the appropriate
26 emissions reduction objectives in the State

1 implementation plan.

2 (c) Grant Program. Any Grant Program established by IEPA
3 pursuant to subsection (b)(1) shall be implemented in
4 accordance with the following provisions:

5 (1) IEPA shall annually allocate at its discretion some
6 or all of the moneys available in the Fund to the Grant
7 Program. Grant Program funds not expended in a given year
8 shall be transferred to the Grant Program or any Rebate
9 Program established under subsection (d) for the following
10 year at IEPA's discretion.

11 (2) Fund Distribution. Subject to the provisions of
12 subsection (a)(4), IEPA shall distribute funds available
13 for each fiscal year for eligible emission reduction
14 measures under the Grant Program.

15 (3) Applications.

16 (A) To receive a grant or loan under the Grant
17 Program, the applicant shall submit to IEPA an
18 application including such information IEPA may
19 require.

20 (B) An application under this subsection shall
21 include:

22 (i) a description of the air quality of the
23 area in which the emission reduction measure
24 fleets will operate;

25 (ii) a description of the emission reduction
26 measure proposed by the applicant, including:

1 (I) any certified engine configuration or
2 verified technology proposed to be used or
3 funded in the emission reduction measure; and

4 (II) the means by which the emission
5 reduction measure will achieve a significant
6 reduction in diesel emissions;

7 (iii) an evaluation (using methodology
8 approved by IEPA) of the quantifiable and
9 unquantifiable benefits of the emissions
10 reductions of the proposed emission reduction
11 measure;

12 (iv) an estimate of the cost of the proposed
13 emission reduction measure;

14 (v) a description of the age and expected
15 lifetime control of the equipment to be used or
16 funded in the proposed emission reduction measure;

17 (vi) a description of the diesel fuel
18 available in the areas to be served by the proposed
19 emission reduction measure, including the sulfur
20 content of the fuel;

21 (vii) provisions for the monitoring and
22 verification of the emission reduction measure;
23 and

24 (viii) such other information as may be
25 required by IEPA.

26 (4) Eligibility.

1 (A) A proposed emission reduction measure must
2 meet the requirements of this Act to be eligible for a
3 grant or loan under the Grant Program.

4 (B) IEPA may consider for funding the following
5 types of emission reduction measures:

6 (i) installation of a retrofit technology
7 (including any incremental costs of a repowered or
8 new diesel engine) that significantly reduces
9 particulate emissions through development and
10 implementation of a certified engine configuration
11 or a verified diesel emission control device for a
12 medium-duty or heavy-duty diesel motor vehicle, a
13 diesel nonroad vehicle, a commercial marine engine
14 or a locomotive;

15 (ii) installation of a CCV on any vehicle or
16 equipment described in subsection (B) (i); and

17 (iii) programs or emission reduction measures
18 to reduce long-duration idling using verified
19 technology involving a vehicle described in
20 subsection (B) (i); provided that truckstop
21 electrification facilities shall be eligible for
22 low-cost revolving loans but not eligible for
23 grants.

24 (C) In providing a grant or loan under the Grant
25 Program, IEPA shall give priority to otherwise
26 eligible emission reduction measures that, as

1 determined by IEPA:

2 (i) maximize public health benefits;

3 (ii) are cost-effective;

4 (iii) serve areas:

5 (I) with the highest population density;

6 (II) that are poor air quality areas,

7 including areas identified by IEPA as:

8 (a) in nonattainment or maintenance of

9 national ambient air quality standards for

10 a criteria pollutant;

11 (b) areas with toxic air pollutant

12 concerns;

13 (III) that receive a disproportionate

14 quantity of air pollution from a diesel fleets,

15 including truckstops, ports, rail yards,

16 terminals, and distribution centers; or

17 (iv) include a certified engine configuration

18 or verified technology that has a long expected

19 useful life;

20 (v) will maximize the useful life of any

21 certified engine configuration or verified

22 technology used or funded by the project;

23 (vi) conserve diesel fuel; and

24 (vii) use ultra low sulfur diesel fuel.

25 (D) For a proposed emission reduction measure to

26 qualify for the Funding Program, other than a project

1 involving a marine vessel or engine, not less than 75%
2 of vehicle miles traveled or hours of operation
3 projected for the 5 years immediately following the
4 award of a grant must be projected to take place in
5 this State. For a proposed emission reduction measure
6 involving a marine vessel or engine, the vessel or
7 engine must be operated in the waterways adjacent to or
8 within Illinois for a sufficient amount of time over
9 the lifetime of the measure, as determined by IEPA, to
10 meet the cost-effectiveness requirements of subsection
11 (c) (5).

12 (E) Each proposed emission reduction measure must
13 meet the cost-effectiveness requirements of subsection
14 (c) (5).

15 (F) A proposed emission reduction measure based on
16 the use of a certified engine configuration or verified
17 technology must document, in a manner acceptable to
18 IEPA, a reduction in particulate emissions of at least
19 50% (compared with the baseline emissions adopted by
20 IEPA for the relevant engine year and application to
21 the extent not provided pursuant of the relevant CARB
22 or USEPA verification process). Three years after the
23 enactment of this Act, after study of available
24 emissions reduction technologies, and after public
25 notice and comment, IEPA may increase the minimum
26 percentage reduction in particulate emissions required

1 by this subsection to improve the ability of the
2 Funding Program to achieve its goals.

3 (5) Cost-effectiveness.

4 (A) For purposes of this Act, "cost-effectiveness"
5 means the total dollar amount divided by the total
6 number of tons of particulate matter reduction
7 attributable to that expenditure. In calculating
8 cost-effectiveness, one-time grants of money at the
9 beginning of a project shall be annualized using a time
10 value of public funds or discount rate determined for
11 each project by IEPA, taking into account the interest
12 rate on bonds, interest earned by State funds, and
13 other factors IEPA considers appropriate.

14 (B) IEPA shall establish reasonable methodologies
15 for evaluating emission reduction measure
16 cost-effectiveness consistent with subsection (5) (A).

17 (C) Except as provided by subsection (5) (F), and
18 except for installation of CCVs under subsection
19 (4) (B) (ii), IEPA may not award a grant for a proposed
20 emission reduction measure under the Grant Program the
21 cost-effectiveness of which, calculated in accordance
22 with subsections (5) (A) and (B) and criteria developed
23 thereunder, exceeds \$135,000 per ton of PM emissions.
24 This subsection does not restrict IEPA authority under
25 other law to require emissions reductions with a
26 cost-effectiveness that exceeds \$135,000 per ton.

1 (D) IEPA may not award a grant that provides an
2 amount that exceeds the incremental cost of the
3 proposed emission reduction measure.

4 (E) In determining the amount of a grant under this
5 Act, IEPA shall reduce the incremental cost of a
6 proposed new purchase, retrofit, repower, or add-on
7 equipment emission reduction measure by the value of
8 any existing financial incentive that directly reduces
9 the cost of the proposed measure, including tax credits
10 or deductions, other grants, loans, rebates, or any
11 other public financial assistance.

12 (F) Adjustment of cost-effectiveness. Based upon a
13 study of available emissions reduction technologies
14 and costs and after public notice and comment, IEPA may
15 change the values of the maximum grant award criteria
16 established in subsection (5)(C) to account for
17 inflation or to improve the ability of the Grant
18 Program to achieve its goals.

19 (d) Rebate Program. Any Rebate Program established by IEPA
20 pursuant to subsection (b)(1) shall be implemented in
21 accordance with the following provisions:

22 (1) IEPA shall annually allocate at its discretion some
23 or all of the moneys available in the Fund to the Rebate
24 Program. Rebate Program funds not expended in a given year
25 shall be transferred to the Rebate Program or any Grant
26 Program established under subsection (c) for the following

1 year at IEPA's discretion.

2 (2) A retrofit vendor or owner of an eligible vehicle
3 who meets the requirements of this subsection shall be
4 eligible to receive a rebate under the Rebate Program; for
5 purposes of this subsection, "eligible vehicle" shall mean
6 a vehicle that meets the requirements of this subsection
7 and that is described in subsection (c) (4) (B) (i).

8 (3) Moneys from the Fund will be provided in the rebate
9 amount to defray the cost of purchase and installation of
10 retrofitting an eligible vehicle with a Level 3 Control in
11 combination with a CCV.

12 (4) Within 180 days after the effective date of this
13 Act, IEPA shall establish the initial rebate amount for
14 retrofits of various types of eligible vehicles. IEPA shall
15 review the appropriateness of the amount no less frequently
16 than annually and may change the rebate amount to improve
17 the ability of the Rebate Program to achieve its goals.

18 (5) In order to receive a rebate, an eligible vehicle
19 owner or retrofit vendor shall:

20 (A) submit to IEPA a completed rebate reservation
21 form including such information IEPA may require with
22 respect to each rebate sought;

23 (B) within 120 days of submission of a rebate
24 reservation form, the owner or vendor shall complete
25 the retrofit pertaining to the rebate reservation
26 form, and shall submit a completed IEPA reimbursement

1 request form including certification of retrofit
2 completion and compliance with all requirements of
3 this subsection and containing such other information
4 and such other conditions as IEPA may require.

5 (6) Rebates shall be provided on a first come, first
6 served basis, with priority established based upon the date
7 of IEPA receipt of a completed reservation form pursuant to
8 subsection (5) (A); provided that, if the retrofits are not
9 completed and the reimbursement request form is not
10 submitted to IEPA within the 120 day period as required by
11 subsection (5) (B), then IEPA may reduce the amount of the
12 rebate or take such other action as it has established by
13 regulations promulgated pursuant to this Funding Program.

14 (7) To the extent of available funds allocated to the
15 Rebate Program, IEPA shall pay the owner or vendor the
16 rebate within 60 days of receipt of a timely, complete, and
17 accurate reimbursement form.

18 (8) Owners of eligible vehicles for which rebates are
19 paid must:

20 (A) meet the requirements of subsection (c) (4) (D);

21 (B) fuel the vehicle with ultra low sulfur diesel
22 fuel; and

23 (C) maintain the vehicle and Level 3 Controls
24 according to manufacturer specifications.

25 (9) The retrofit vendor to eligible vehicles for which
26 rebates are provided must honor all warranty provisions

1 according to their verification.

2 (e) Emission Reduction Credits.

3 (1) An emission reduction measure funded under the
4 Funding Program established under this Section may not be
5 used for credit under any State or federal emissions
6 reduction credit averaging, banking, or trading program.

7 (2) An emissions reduction generated by an emission
8 reduction measure funded under the Funding Program
9 established under this Section:

10 (A) may not be used as a marketable emissions
11 reduction credit or to offset any emissions reduction
12 obligation; but

13 (B) may be used to demonstrate conformity with the
14 State implementation plan.

15 (3) An emission reduction measure involving a new
16 measure that would otherwise generate marketable credits
17 under State or federal emissions reduction credit
18 averaging, banking, or trading programs is not eligible for
19 funding under the Funding Program established under this
20 Section unless:

21 (A) the measure includes the transfer of the
22 reductions that would otherwise be marketable credits
23 to the State implementation plan; and

24 (B) the reductions are permanently retired.

25 (f) Funding Program Reports.

26 (1) Not later than December 1, 2009, and not later than

1 December 1 of every second year thereafter, IEPA shall
2 publish and submit to the legislature a report of the
3 implementation of the provisions of this Funding Program.
4 IEPA shall provide notice and an opportunity for public
5 comment and public hearing on each draft biennial report
6 and, in producing a final biennial report, shall consider
7 and respond to all significant comments received; the
8 report shall be publicly available, and IEPA shall post it
9 on its website.

10 (2) The report must:

11 (A) include a review of each pollution-reduction
12 measure funded under any Grant Program, the amount
13 granted for the emission reduction measure, the
14 emissions reductions attributable to the emission
15 reduction measure, and the cost-effectiveness of the
16 emission reduction measure; IEPA shall also conduct an
17 annual review of any Rebate Program, including the
18 total rebates paid, the total retrofits installed and
19 the aggregate emission reductions attributable to
20 those retrofits;

21 (B) include a summary of IEPA's Funding Program
22 implementation activities under this Section;

23 (C) account for money received, money disbursed as
24 grants, money reserved for grants based on project
25 approvals, money disbursed as rebates, any recommended
26 transfer of money between allocations, and must

1 estimate future demand for grant and rebate funds under
2 the Funding Program;

3 (D) describe the overall effectiveness of the
4 Funding Program in delivering particulate emissions
5 reductions and other emission reductions as
6 co-benefits;

7 (E) evaluate the effectiveness of the Funding
8 Program in soliciting and evaluating project
9 applications, providing awards in a timely manner, and
10 monitoring project implementation;

11 (F) describe adjustments made to project selection
12 criteria and recommend any further needed changes or
13 adjustments to the grant programs, including changes
14 in grant award criteria, administrative procedures, or
15 statutory provisions that would enhance the Funding
16 Program's effectiveness and efficiency;

17 (G) describe any adjustments made to the maximum
18 cost-effectiveness amount and award amount;

19 (H) evaluate the benefits of addressing additional
20 pollutants as part of the Funding Program; and

21 (I) include legislative recommendations necessary
22 to improve the effectiveness of the Funding Program.

23 Section 20. Miscellaneous.

24 (a) Equitable Relief Authorized. In addition to other
25 remedies provided in this Funding Program, IEPA may seek

1 injunctive relief in any court of competent jurisdiction to
2 enforce any provision of this Funding Program.

3 (b) Severability. If any clause, sentence, paragraph,
4 section or provision of this Funding Program shall be adjudged
5 by any court of competent jurisdiction to be invalid, such
6 judgment shall not affect, impair, or invalidate the remainder
7 of this Funding Program, but shall be confined in its operation
8 to the clause, sentence, paragraph, section, or provision of
9 this Funding Program directly involved in the controversy in
10 which the judgment was rendered.

11 Section 95. The State Finance Act is amended by adding
12 Section 5.708 as follows:

13 (30 ILCS 105/5.708 new)

14 Sec. 5.708. The Diesel Emissions Reduction Fund.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.